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SUBJECT: PANAMA'S OFF SHORE CORPORATION INDUSTRY

This is Part I of a two part series on Panama's off-shore corporation regime. Part I describes the incorporation process, and Part II (septel) will discuss who benefits and how.

¶1. (SBU) SUMMARY. Panama is the second most popular jurisdiction in which to form offshore corporations (sociedad anonimas or anonymous societies) after Hong Kong. The advantages to incorporating in Panama include: the ease and flexibility of forming a corporation, well-established corporation law, and a tax regime that taxes only Panamanian derived income. This incorporation regime ensures secrecy, avoids taxes, and shields assets from the enforcement of legal judgments. Along with its sophisticated banking services, Panama remains an environment conducive to laundering the proceeds from criminal activity and creates a vulnerability to terrorist financing.
END SUMMARY

FORMING A PANAMANIAN COMPANY IS EASY

¶2. (U) According to a 2005 World Bank report, Panama is the easiest and fastest country in Latin America in which to incorporate. On average it takes seven procedures and 19 days. Forming a Panamanian corporation typically costs less than \$2,000, inclusive of legal fees. There is no minimum capital requirement, and non-resident Panamanian corporations are not required to have a commercial business license to operate internationally. Panamanian corporations are marketed widely on the internet and in the financial media. Panama's Public Registry currently lists over 350,000 off-shore corporations registered in Panama.

¶3. (U) To establish a Panamanian corporation, two or more persons of legal age and capacity, of any nationality or domicile (the subscribers), execute the articles of incorporation before a notary public in Panama. The articles of incorporation state the names and addresses of the directors, officers and resident agent, but are not required to list the shareholders. The resident agent must be a Panamanian lawyer or law firm and usually acts as the subscriber. The directors and officers of a Panamanian company need not be shareholders or Panamanian residents.

¶4. (U) The subscribers have the right to own one share of the corporation's capital stock and are typically

the only shareholders that may be listed in the articles. Once executed the articles are filed with the Public Registry and the corporation acquires its legal existence.

HIDDEN DIRECTORS, OFFICERS AND SHAREHOLDERS

15. (U) Once a corporation is formed, the initial shareholders can assign, transfer, or relinquish their shares to successive individuals and/or other off-shore corporations without any reporting requirements. Panamanian law requires the maintenance of a shareholder registry, but the physical location can be anywhere. Panama also allows the issuance of "bearer certificates." These physical shares in a company entitle the "bearer" to open a bank account and transact on behalf of the company.

16. (U) Many Panamanian companies and law firms offer resident agent services, along with nominee directors and officers. The advantage to nominee directors and officers is that they have no connection to, or knowledge of, the shareholders. These directors and officers operate pursuant to a power of attorney granted by the shareholders that is not required to be filed with the Public Registry.

17. (U) There is no legal requirement for resident agents to have direct contact with or information concerning a corporation's directors, officers or shareholders. While a "know your customer" obligation is imposed on Panamanian lawyers, the resident agent normally does not maintain any corporate records. In many cases, neither the resident agent nor the law firm know the identity of the shareholders.

AVOIDING THE TAXMAN

18. (U) Panama taxes only income derived within the territory of Panama only. The following are neither taxed nor required to be reported to any Panamanian authority:

- Dividends or other distributions by a Panamanian corporation but sourced from non-Panamanian income.
- Interest income.
- Salary or other compensation received by non-Panamanian residents from a Panamanian corporation.

Accordingly, the function performed by Form 1099 in the US of linking income to its recipient does not exist in Panama.

19. (U) Panama's favorable corporate tax environment is complemented by its sophisticated banking infrastructure. To bypass the "know your customer" requirement of Panama's banking laws, the newly formed Panama corporation opens its bank accounts outside Panama in any of 100 banks from 30 countries that have branch offices in Panama.

COMMENT

110. (SBU) The money laundering process of: placement (putting money into a legitimate financial institution), layering (distancing the money from its origin) and

integration (causing the money to re-enter the economy in legitimate-looking form) is perfectly replicated in Panama. Panama's status as a major commercial and banking center (placement), corporation law and tax regime (layering) create an environment conducive to illicit finance.

ARREAGA